

Practitioner's Docket No.: 791\_130 RCE

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the application of: Li YANG and Toshihiro YOSHIDA

Ser. No.: 09/770,725

Group Art Unit: 1746

Filed: January 26, 2001

Examiner: Jonathan Crepeau

Conf. No.: 6015

Title: LITHIUM SECONDARY BATTERY



Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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*Janet M. Stevens*  
Janet M. Stevens

**REQUEST FOR REFUND**

Sir:

It is respectfully requested that the Government Fee of \$500.00 for filing a Notice of Appeal, submitted herewith, be refunded to the Applicants for the reasons set forth below.

On November 3, 2003, the U.S. PTO issued a Final Office Action rejecting claims 1-17. The references applied in that Final Rejection included U.S. Patent No. 6,350,544 and U.S. Patent No. 6,083,644.

On April 2, 2004, the Applicants submitted a Notice of Appeal together with the Government Fee for filing the Notice of Appeal, appealing the November 3, 2003 Final Rejection. On June 7, 2004, the Applicants submitted a Brief on Appeal, together with the Government Fee for submitting a Brief on Appeal, addressing the rejections contained in the November 3, 2003 Final Rejection.

In response to the Brief on Appeal, the U.S. PTO withdrew the present application from appeal, withdrew the rejections contained in the November 3, 2003 Office Action, reopened prosecution, and issued a new Office Action dated August 16, 2004, without refunding to the Applicants the Government Fee for filing a Notice of Appeal or the Government Fee for filing a Brief on Appeal, and without providing the Applicants an opportunity to have the patentability of claims 1-17 in view of the applied references reviewed by the Board of Patent Appeals and Interferences.

The Applicants are now appealing a rejection set forth in a Final Office Action dated January 14, 2005, rejecting the identical claims 1-17 over U.S. Patent No. 6,350,544 and U.S. Patent No. 6,083,644. That is, the claims in the present appeal are identical to the claims which were contained in the original appeal (Notice of Appeal filed April 2, 2004; Brief on Appeal filed June 7, 2004) for which the Applicants were denied the opportunity to obtain consideration by the Board of Patent Appeals and Interferences, despite having paid all required Government Fees to obtain such consideration.

For the reasons set forth above, the need to again file a Notice of Appeal in the present application was clearly not the fault of the Applicants, and the Applicants should not be required to pay the Government Fee for filing a Notice of Appeal twice.

Should the appropriate representative of the U.S. PTO have any questions or concerns regarding this request, or if any further information is required, that representative is respectfully requested to telephone the undersigned at the number set forth below.

Respectfully submitted,



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Kevin C. Brown  
Reg. No. 32,402

KCB:jms

BURR & BROWN  
P.O. Box 7068  
Syracuse, NY 13261-7068

Customer No.: 25191  
Telephone: (315) 233-8300  
Facsimile: (315) 233-8320